

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11617 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE JAYANT PATEL

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the concerned : NO
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

CHAUHAN RAMVILASSINH

DASARATHSINH

Versus

MANAGING TRUSTEE

Appearance:

1. Special Civil Application No. 11617 of 2000
MR CB DASTOOR for Petitioner No. 1
SERVED BY RPAD - (R) for Respondent No. 1
Mr.Mehta, AGP for Respondent No. 2-3

CORAM : MR.JUSTICE JAYANT PATEL

Date of decision: 12/03/2003

ORAL JUDGEMENT

The present petition is preferred by the

petitioner challenging the order, dated 14.7.2000 passed by the respondent No.2 whereby the petitioner has been denied appointment on compassionate ground on the basis that the income of the family of the deceased employee is exceeding Rs.2,500/- .

2. Heard Mr.Dastoor for the petitioner and Mr.Mehta, AGP for respondents. There is no dispute on the point that the present case is covered by the judgment, dated 1.10.02 of the Division Bench of this court (Coram: J.N.Bhatt & Kundan Singh,JJ) in LPA No.176/02 in SCA No.4895/01 and allied matters whereby relying on the resolution, dated 7.9.02 of the State Govt direction is given to the authority to consider the case for appointment on compassionate ground without considering the income limit of the family of the deceased employee. The Ld.AGP has fairly submitted that as such the petitioner would be entitled to the benefit of resolution, dated 7.9.02.

3. Having considered the above, I am of the view that when the State Govt has taken policy decision not to consider the income limit of family of the deceased employees who have expired on 1.1.1996 there is no reason why such benefit should not be given to the petitioner. In the present case also the deceased employee expired on 12.4.98 and therefore the decision of the authority of denying the appointment on compassionate ground to the petitioner on the basis of income limit of the family of the deceased employee can not be sustained in law and deserves to be quashed. Therefore, the order dated 14.7.02 passed by the Dist.Primary Education Officer, Sabarkantha copy whereof is at annexure "C" is quashed and the respondents are directed to consider the case of the petitioner for appointment on compassionate ground without considering the income limit of the family of the deceased employee in accordance with law.

4. The petition is allowed to the aforesaid extent. Rule is made absolute accordingly. There shall be no order as to costs.

12.3.03 (JAYANT PATEL, J)